

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY

OF

HANNAH K. MAJEWSKI

DECEMBER 9, 2009



DOCKET NO. 2009-382-WS

**Petition of the Office of Regulatory Staff
for a Declaratory Order Against Nature's
Development Incorporated Requiring
Certification as a Water/Sewer Utility
and the Posting of a Performance Bond**

DIRECT TESTIMONY OF HANNAH K. MAJEWSKI

FOR

THE OFFICE OF REGULATORY STAFF

DOCKET NO: 2009-382-WS

IN RE: PETITION OF THE OFFICE OF REGULATORY STAFF FOR A

DECLARATORY ORDER AGAINST NATURE'S DEVELOPMENT

INCORPORATED REQUIRING CERTIFICATION AS A WATER/SEWER

UTILITY AND THE POSTING OF A PERFORMANCE BOND

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND
OCCUPATION.**

A. My name is Hannah K. Majewski, and my business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the State of South Carolina Office of Regulatory Staff ("ORS") as the Program Specialist for the Water and Wastewater Department.

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND
EXPERIENCE.**

A. I received a Bachelor of Arts Degree in English from the University of South Carolina in 1990. I have been employed with state government for 19 years, with the last three years employed by the Office of Regulatory Staff's Consumer Services Department assisting electric and gas consumers. In July 2009, I became the Program Specialist for the Water and Wastewater Department.

**THE OFFICE OF REGULATORY STAFF
1401 Main Street, Suite 900
Columbia, SC 29201**

1 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
2 **PROCEEDING?**

3 A. The purpose of my testimony is to set forth the ORS staff findings relative
4 to the petition filed with the Public Service Commission ("Commission" or
5 "PSC") by the ORS against Fannie Mack and/or Nature's Development Water
6 and Wastewater System ("Nature's Development"). Specifically, I will focus on
7 Nature's Development's non-compliance with the Commission's rules and
8 regulations.

9 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**
10 **TESTIMONY AND ACCOMPANYING EXHIBITS?**

11 A. Yes, my testimony and the attached exhibits detail ORS's findings and
12 recommendations.

13 **Q. PLEASE PROVIDE AN OVERVIEW OF THE LOCATION, SERVICE**
14 **TYPE AND CUSTOMER BASED SERVED BY NATURE'S**
15 **DEVELOPMENT.**

16 A. Nature's Development provides water and wastewater service to
17 approximately nine (9) residential customers in the Mack Estates Subdivision in
18 York County, South Carolina. Based on our preliminary review Nature's
19 Development would be classified as a NARUC Class C water and wastewater
20 utility according to the rates being charged and the number of customers that are
21 being provided water and wastewater service.

22 Nature's Development is a water and wastewater system currently owned
23 by Ms. Fannie Mack. According to Ms. Mack, she contracts with a certified

1 operator provided by Keistler Engineering. The water system which operates
2 under DHEC authority as Public Drinking Water System No. 1250009 was
3 approved by DHEC to serve 50 taps to the Mack Estates Subdivision and the
4 wastewater system operates under National Pollutant Discharge Elimination
5 System ("NPDES") No. SC0043095. Nine (9) homes are being served by
6 Nature's Development. There is an opportunity for the system to expand as new
7 homes are built in the subdivision.

8 **Q. HOW DID YOU DISCOVER THAT NATURE'S DEVELOPMENT WAS**
9 **OPERATING AS A NON-REGULATED WATER AND WASTEWATER**
10 **SYSTEM?**

11 A. On October 2, 2008, a customer of Natures' Development contacted the
12 ORS with a complaint disputing a \$32.00 late charge assessed. In ORS's attempt
13 to investigate this consumer's complaint it was discovered that Nature's
14 Development has been providing water service to customers as a "public utility"
15 as defined in S.C. Code Ann. 58-5-10(4) which states that it is a "corporation and
16 person delivering natural gas distributed or transported by pipe, and every
17 corporation and person furnishing or supplying in any manner heat (other than by
18 means of electricity), water, sewerage collection, sewerage disposal, and street
19 railway service, or any of them, to the public, or any portion thereof, for
20 compensation..." (See Exhibit HKM-1)

21 **Q. DID ORS CONTACT NATURE'S DEVELOPMENT TO ADVISE THEIR**
22 **WATER AND WASTEWATER SYSTEM MAY BE SUBJECT TO**

1 application to the Commission for the establishment as a water and wastewater
2 utility with approved rates, charges and be required to post a performance bond in
3 compliance with Commission regulations or Nature's Development may, under
4 Regulations 103-502.5 and 103-702.7, request a wavier and establish a HOA. If
5 Nature's Development fails to come into compliance, Nature's Development must
6 cease charging customers for water and wastewater service to the Mack Estates
7 Subdivision.

8 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

9 A. Yes it does.

*Nature's Development
PO Box 7
McConnells, SC 29726*

August 28, 2009

McConnells, SC 29726

Re: Water Bill

Dear Occupant:

Please be advised, as of September 1, 2009 you will be required to pay your water and sewage bill to Nature's Development.

Payment of Sixty dollars (\$60.00) will be due each month on the 15th of each month. Payment is required to be paid in order to prevent interruption of service. A reconnection fee of \$25.00 will be charged in addition to any outstanding charges.

Please make checks payable to: Nature's Development.

Mail to: Nature's Development
PO Box 7
McConnells, SC 29726

With kind regards, I am

Very truly yours,

Fannie Mack
Fannie Mack

C. DUKE'S SCOTT
EXECUTIVE DIRECTOR

1101 Main Street, Suite 900
Columbia, SC 29201



Phone: (803) 737-0800
Fax: (803) 737-0801

DAN EARNETT
CHIEF OF STAFF

DAWN M. HIPPE
DIRECTOR

TELECOMMUNICATIONS, TRANSPORTATION, WATER/WASTEWATER

CERTIFIED MAIL

July 7, 2009

Mr. Danny Armstrong
~~DanBeck Builders, LLC~~
PO Box 343
McConnells, SC 29726

Re: Drinking Water and Wastewater System

Dear Mr. Armstrong:

The South Carolina Office of Regulatory Staff (ORS) is a State Agency responsible for the supervision and regulation of the rates and service of investor owned (public) utilities within South Carolina. The term "public utility" is defined by law as a person or entity furnishing or supplying in any manner water and/or sewer service to the public, or any portion thereof, for compensation.

ORS has been informed that you are providing water and wastewater service within this state to customers of the Mack Estates community in York County for compensation. Therefore, your systems are subject to regulation by the statutes and regulations of the Public Service Commission of South Carolina (PSC).

It is our understanding that you desire to organize under the provisions of a "homeowners association" as defined in the regulations of the PSC. A "homeowners association", as defined in the PSC rules and regulations and subject to the requirements set forth in an order by the PSC, may be found not to be a utility.

I have enclosed for your review a copy of the PSC regulations (26 S.C. Code Regs. 103 Article 5 and 7). I have highlighted Regulations 103-502.5 and 103-702.7 for your reference as it pertains to the HOA exemption. The HOA is required to file the following items with the PSC:

- 1) A certified copy of the certificate of incorporation;
- 2) A copy of the HOA bylaws;
- 3) A copy of the covenants, conditions, restrictions on real property in the subdivision or development filed in conjunction with the formation of the HOA;
- 4) A copy of the DHEC permit issued to the HOA for operation; and

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5) Copies of a statement signed by each lot owner disclosing that their water and sewer services are provided by the HOA, in which each lot owner is a voting member and that an appropriate assessment for operation must be paid by each lot owner.

In order to avoid a formal petition filing by ORS against your organization, we request that you submit the appropriate information for the establishment of your "homeowners association" to the PSC ~~no later than Thursday, July 23, 2009.~~ All information for the filing should be mailed to the following address:

Mr. Charles Terreni, Esquire
Chief Clerk and Administrator
Public Service Commission of South Carolina,
101 Executive Center Dr., Suite 100
Columbia, South Carolina 29210

If additional time is needed to make your filing as a "homeowners association", please let us know.

If you have any questions regarding this matter, please contact me at (803) 737-0898 or Mr. Willie Morgan at (803) 737-0827. Your prompt attention to this matter would be greatly appreciated.

Sincerely,



Hannah Majewski
Program Specialist for Water and Wastewater
hmajews@regstaff.sc.gov

Enclosures

Cc: Ms. Karen Ramos, DHEC
Ms. Hollon Stillwell, DHEC